(4) 6 SINGLE BENCH

of 107

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) NO. OF 2007

PETITIONER:

1. Darasram, Aged About- 65 years, S/o- Shri Chhabilal Satnami, R/o- Village- Sarwa, P.H.No.-10, Thesil- Kasdol, Distt.-Raipur (C.G.)

2. Ghanaram, Aged About- 30 years, S/o- Shri Cheduram Satnami, R/o- Village- Sarwa, P.H.No.-10, Thesil- Kasdol, Distt.-Raipur (C.G.)

P.R. No. 14/9/07 Vinay Pandey 20/12/07

VERSUS

RESPONDENT (S): 1. Board of Revenue Chhattisgarh, Bilaspur, Circuit Court-Raipur, Through Its President,

2. Bhagwat, Aged About- 55 years, S/o- Shri Chedu Satnami, R/o- Village- Sarwa, P.H.No.-10, Thesil- Kasdol, Distt.-Raipur (C.G.)

3. Manaharan, Aged About- 50 years, S/o- Shri Chedu Satnami, R/o- Village- Sarwa, P.H.No.-10, Thesil- Kasdol, Distt.-Raipur (C.G.)

RECEIVED-COPY 20/12/07 G.E.R. to A.G. BILASPUR

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE ORDER.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (c) No. 1203 of 2007

Petitioners — Darasram and another

Versus

Respondents — Board of Revenue and others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Vinay Pandey, Advocate for the petitioner.

ORDER

(Passed on 1st day of March, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. By this petition filed under Article 227 of the Constitution of India, the petitioner challenges the validity of the impugned order dated 22nd December, 2006 (P/3), passed by the Board of Revenue, Bilaspur in Revenue Case No. 29/A-6/2005-06.

2. The indisputable facts, in nutshell, are that the petitioner filed an application under Section 178 of the Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as 'the Code') before the Tahsildar for partition of holding of the land bearing Khasra No. 799/5, 799/6, 1713/2, admeasuring 0.890 hectare, situated at village Sarwa, Tahsil Kasdol, District-Raipur. The Tahsildar, Kasdol, District-Raipur vide order dated 31.5.2005 (P/1) in Revenue Case No. 24 A/6/2004-05 held that the property known as 'Seetal Talab' is an ancestral property and the petitioners being successors are entitled to be mutated in Revenue records. Thus, the Tahsildar was accordingly directed to record the names of the petitioners in revenue records as Sahkhatedar.

3. Against the said order, the respondents No. 2 and 3 preferred an appeal, being Case No. 56/A-6/2004-05, before the Sub-Divisional

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Officer (Revenue), Bhilaigarh. The Sub-Divisional Officer vide order dated 30.07.2005 held that the Tahsildar has not considered the fact that the respondents No. 2 and 3, sons of Cheduram Satnami, were entitled to a share in 'Seetal Talab' and names of the respondents No. 2 and 3 were recorded in Khatouni year 2001-2002. Thus, vide order dated 31.5.2005, the Sub-Divisional Officer set aside the order passed by the Tahsildar.

4. It is necessary to mention here that the petitioner has deliberately not filed the order passed by the Sub Divisional Officer (Revenue), Bhilaigarh in the petition.

5. The respondents No. 1 and 2 (petitioners herein) filed an appeal, being Appeal No. 104/A/6/ year 2004.05, before the Additional Collector, Baloda Bazar, District Raipur. The Additional Collector vide order dated 7.12.2005 (P/2) held that the second mutation cannot be directed and if the respondents No. 1 and 2 have any grievance they should move the Civil Court for necessary decree. Accordingly, the order dated 30.7.2005, passed by the Sub-Divisional Officer was quashed and the Additional Collector maintained the order dated 30.5.2005, passed by the Tahsildar, Kasdol.

6. Being aggrieved, the respondents preferred a revision before the Board of Revenue, Bilaspur. The Board of Revenue, after having considered all the aspects in detail, came to the conclusion that names of the legal heirs of Cheduram Satnami ought to have been recorded in revenue records, which was completely ignored by the Tahsildar as well as Additional Collector. The Chairman, Board of Revenue found that the order passed by the Sub-Divisional Officer was in accordance with law and based on revenue records

available, wherein Cheduram Satnami after of the respondents No. 2 and 3 was recorded as Sahkhatedar in the property in dispute, which was completely ignored by the Tahsildar and thereafter, by the Additional Collector in their orders.

7. I have heard learned counsel for the petitioners and perused the pleadings and documents appended thereto. There is no infirmity or illegality found in the order dated 22nd December, 2006, passed by the Board of Revenue, Bilaspur.

8. It is well settled principle law that power of superintendence under Article 227 of the Constitution of India cannot be invoked to correct mere errors of fact under supervisory jurisdiction. High Court cannot in exercise of its jurisdiction under Article 227 convert itself into a court of appeal.

9. The Supreme Court in the case of **Surya Dev Rai vs. Ram Chander Rai and others** (2003) 6 SCC 675 held as under:-

> "38.....(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.
>
> (6) A patent error is an error which is self-evident i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called gross or patent.
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> (7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and

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only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not covert itself into a court of appeal and indulge in reapprecation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character......"

10. Applying the dicta (supra) laid down by the Supreme Court in regard to exercise of supervisory jurisdiction to the facts of the present case, there is no error found in the impugned order passed by the Board of Revenue and no injustice has been occasioned thereby.

11. As a result and foregoing reasons, this petition stands dismissed.

Sd/-
Satish K. Agnihotri
Judge

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